United Nations CRC/C/SR.1940

Convention on the Rights of the Child

Distr.: General
19 January 2015

Original: English

Committee on the Rights of the Child
Sixty-eighth session

Summary record of the 1940th (Chamber B) meeting
Held at the Palais Wilson, Geneva, on Wednesday, 14 January 2015 at 3 p.m.

Chairperson: Ms. Wijemanne (Vice-Chairperson)

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The meeting was called to order at 3.05 p.m.

Consideration of reports of States parties (*continued*)

Combined third to fifth periodic reports of Mauritius (CRC/C/MUS/3-5; CRC/C/MUS/Q/3-5 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Mauritius took places at the Committee table.*

2. **Ms. How Fok Cheung** (Mauritius), introducing her country's combined periodic reports (CRC/C/MUS/3-5), said that Mauritius was a party to all major international human rights instruments and that the new Government, which had taken office in December 2014, attached great importance to the rights and participation of the child. The combined periodic reports had been prepared following extensive national consultations with NGOs and civil society.

3. In December 2008, a child mentoring scheme had been set up to provide individualized guidance and support to adolescents with behavioural problems and children at risk of commercial sexual exploitation and violence. The Child Mentoring Committee had been established in 2009 to screen and match children with adult mentors. Also in 2009, the Combating of Trafficking in Persons Act had been enacted, which provided for protection and assistance, repatriation and compensation for trafficking victims. A drop-in centre catered to the needs of trafficking victims, while a residential care facility for victims of commercial sexual exploitation would become operational in 2015.

4. The children's bill, which was currently being finalized, would bring together the various pieces of legislation on children into a single law and would include the provisions of the Convention and its Optional Protocols. Corporal punishment was already forbidden in schools, while corporal punishment in all settings had been included as an offence in the children's bill. A juvenile justice bill had also been drafted in line with the Convention. A national child protection strategy and associated action plan had been developed, and its implementation would be monitored and evaluated. The National Human Rights Action Plan 2012–2020 included measures to protect and safeguard the rights of children. A human rights monitoring committee had been established to ensure that the plan was properly implemented. The National Children Council organized consultations, workshops and developmental activities for children on a regular basis.

5. Education was free up to the tertiary level, and efforts were being made to improve access to education for all children and encourage school attendance, including through a monthly cash transfer scheme for students from vulnerable families who maintained a 90 per cent attendance rate. Consultations were ongoing on introducing human rights in the curriculum for secondary schools. Mauritius had launched an inclusive education policy and thus expected to remove its reservation to article 24 of the Convention on the Rights of Persons with Disabilities once the policy had been fully implemented. A high-level committee had been established with a view to achieving parity in government funding between children with disabilities and other children. Families in vulnerable situations received childcare services, meals, school materials and payment of transport and school fees. Nine child day-care centres had been set up in disadvantaged regions since 2010, and a crèche scheme enabled children from vulnerable families to attend those centres.

6. Public health-care services were free and easily accessible. Nearly 100 per cent of the population had access to potable water and sanitation facilities. Desalination plants were being built on the island of Rodrigues to provide safe drinking water. The Government provided free immunization services for a wide range of diseases affecting infants. Tablet computers were provided to students in secondary schools. A centralized system to filter online access to child sexual abuse sites had been operational since 2011.

7. There were currently no reported cases of children in street situations in Mauritius, though specialized agencies were in place to take prompt action if such children were found. The NGO Service d'Accompagnement, de Formation, d'Insertion et de Réhabilitation de l'Enfant (SAFIRE) received government funding to support its work with street children, and a number of other NGOs working with children also received government support. Capacity-building workshops and consultations had been held for professionals working with child victims of sexual abuse. A community child protection programme provided for the establishment of formal forums comprising stakeholders working with children both from the Government and from civil society. Community child watch committees were involved in identifying and referring cases of violence against children.

8. The Government's priorities concerning the status and welfare of children included: strengthening the Brigade pour la Protection des Mineurs in its fight against children's consumption of cigarettes, alcohol and illicit substances; conducting awareness-raising campaigns on teenage pregnancy; introducing a sexual protection order for children at risk; placing young children of female prisoners in foster families; setting up a special squad to combat child prostitution; and granting more powers to the Ombudsperson for Children.

9. **Mr. Mezmur** (Country Rapporteur) said that the Committee looked forward to the entry into force of the children's bill, which would fully integrate the Convention into national law. He asked to what extent the Equal Opportunities Commission was helping to address discrimination against children, to what extent children had access to the Commission, whether it had the power to grant remedies to victims of discrimination, and whether its members were trained to work with children. He asked how the Government was addressing discrimination against children from disadvantaged backgrounds, children living with HIV and children who used drugs.

10. He wished to know what measures the Government was taking to raise awareness about the importance of birth registration and what the impact of those measures had been. He asked whether the State party was considering ratifying the Convention on the Reduction of Statelessness and the Convention relating to the Status of Stateless Persons.

11. He wished to know specifically how the children's bill would address corporal punishment in all settings. He asked whether the Child Development Unit had the resources and training needed to address, detect and prevent violence against children at an early stage. He wondered to what extent cases of sexual abuse and exploitation of children, including sex tourism, were being dealt with through the judicial system. Lastly, he asked whether appropriate facilities with adequate standards of care were in place to care for abused children.

12. **Mr. Gurán** (Country Rapporteur) requested further information about the "Working Together" framework and the extent to which it had improved coordination between the different government departments and institutions. He wondered whether the Ombudsperson for Children's Office could receive complaints submitted on behalf of children and whether adequate human and financial resources were available to it. The delegation should describe the progress achieved thus far through the implementation of the National Human Rights Action Plan 2012–2020. Lastly, he enquired about the current status of the children's bill.

13. **Mr. Kotrane** said that he welcomed the progress made concerning the rights of the child in Mauritius and hoped that the State party would continue to make further progress in that regard. He asked whether the State party intended to ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Protection of the Rights of All Migrant Workers and

Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance.

14. He hoped that the children's bill would be adopted without delay, as adopting such a bill was the only way to fully transfer the Convention into national law under the country's dualist system. He asked why judges could not invoke the Convention in cases involving children. Given that Mauritian law defined a child as anyone who was under 18 years of age and not married, he asked whether a child under 18 years of age who did marry would no longer be entitled to the legal protections established for children.

15. **Ms. Oviedo Fierro** said that, in her view, all judges should be trained in dealing with children and listening to their views, and she requested clarification regarding the conditions that must be met for a judge to take a child's views into consideration. She asked what mechanisms were in place to enable children's participation in school governance, in addition to those allowing them to express their views when behavioural or discipline any problems arose. She wished to know whether the Children's Clubs described in the report were true forums for children's participation or whether they simply offered activities set up for children. She requested further information about how children's participation was ensured in the various other organizations that ran programmes targeting them. Lastly, she asked when the subject of children's participation would be addressed in national legislation and when a national children's forum might be established.

16. She asked whether the State party had made efforts to raise the awareness of parents of the need to supervise their children when they used the Internet. She also wished to know whether there were legal provisions protecting children when they used the Internet and, if so, whether they were systematically applied.

17. **Mr. Mezmur** said that he had understood from paragraph 7 of the written replies to the list of issues (CRC/C/MUS/Q/3-5/Add.1) that the State party planned to elevate the status of the "Working Together" Committee. He requested the delegation to confirm whether that was the case. He asked how the various child protection committees had contributed to the implementation of the Convention and to reducing the prevalence of violence against children in the State party. He also wished to know about the role played by the Office of the Ombudsperson for Children in reviewing laws concerning children and whether children had participated in the consultations on the draft children's bill. He asked whether the human rights training provided by the Office of the Prime Minister covered all human rights or just civil and political rights, and whether school curricula already included a human rights component.

18. **The Chairperson**, speaking in her capacity as an expert, asked whether corporal punishment was prohibited in the home and in alternative care and day-care settings as well as in schools; whether there was a mechanism in place to allow children who had been subjected to corporal punishment to report the act in confidence; and how reports of corporal punishment were followed up. She also wished to know whether all children who were victims of violence, ill treatment or sexual abuse had access to the psychological services provided by the Child Development Unit and whether there was a special procedure for handling court cases involving children who were victims of sexual abuse. She asked whether children who were victims of sexual abuse could report the act without being accompanied by an adult.

The meeting was suspended at 4 p.m. and resumed at 4.35 p.m.

19. **Ms. Goordyal-Chittoo** (Mauritius) said that the establishment of the Equal Opportunities Commission in 2012 demonstrated the country's commitment to combating all forms of discrimination. The Equal Opportunities Act provided a clear definition of direct and indirect discrimination. The Commission's mandate was to eradicate all forms of discrimination in all sectors, including discrimination against children. The Commission

could receive and investigate complaints of discrimination and issue interim orders. It had also published guidelines on non-discrimination for the attention of employers in the public and private sectors. Children could report acts of discrimination to the Commission through a parent, guardian or other responsible adult. Should the conciliatory procedures initiated by the Commission fail, the case could be referred to the Equal Opportunities Tribunal, which could issue orders and award compensation if required. Any failure to comply with an order issued by the Tribunal could lead to criminal prosecution.

20. The Constitution prohibited discrimination against children from disadvantaged or vulnerable families. Mauritius was not yet in a position to ratify the Convention on the Reduction of Statelessness, the Convention relating to the Status of Statelessness Persons or the International Convention for the Protection of All Persons from Enforced Disappearance on account of the numerous policy decisions that had to be taken prior to initiating the ratification process.

21. The draft children's bill gave a comprehensive definition of corporal punishment. However, the bill could still be subject to modification by the new Government or by Parliament. Any person inflicting corporal punishment on a child could be prosecuted under the Child Protection Act or the Criminal Code. The Ombudsperson for Children was an independent body competent to receive complaints, summon witnesses, call for documents and compel witnesses to answer questions. It was also responsible for ensuring that the rights, needs and interests of children were taken into account by public bodies, private authorities and individuals, and for ensuring compliance with the Convention. The new Government had decided to give greater powers to the Ombudsperson for Children to enable her to carry out her mandate more effectively. Her office could review laws concerning children and provide guidance to the relevant government ministries on how to remedy any shortcomings identified. The office reported to and received its budget from the Office of the Prime Minister and was required to submit a report on its activities each year.

22. **Mr. Kotrane** requested additional information on the functioning of and the human and financial resources allocated to the Office of the Ombudsperson for Children. He asked how many complaints it had received.

23. **Ms. Goordyal-Chittoo** (Mauritius) said that the Office of the Ombudsperson for Children had set up a hotline for receiving complaints. The delegation could inform the Committee of the exact number of complaints received by the office at a later date.

24. **Mr. Mezmur** requested additional information on the new powers to be given to the Ombudsperson for Children. He asked whether it systematically provided input into legislative reforms affecting children's rights. He invited the delegation to comment on the seemingly contradictory provisions of the Reform Institutions Act, which provided that no detainee should be subject to punishment or privation of any kind, while advocating the use of reasonable force to maintain order in the institution.

25. **Ms. Goordyal-Chittoo** (Mauritius) said that the Reform Institutions Act governed the treatment of detainees in general in penal institutions and not the treatment of children in penal institutions in particular. The Act provided for the possibility of using reasonable force to maintain order in such institutions should a situation arise in which it became necessary to do so. However, the use of force was not resorted to systematically.

26. The Ombudsperson for Children had taken part in the consultations held during the process of preparing the draft children's bill. The new Government's five-year plan would contain more detailed information on the extended powers to be given to the Ombudsperson for Children. Mauritius had signed the Optional Protocol to the Convention on the Rights of the Child on a communications procedure but was not yet in a position to ratify it. There were already legal procedures in place to deal with the issues covered by the Optional Protocol.

27. **Mr. Kotrane** said that the State party should give serious consideration to ratifying the Optional Protocol, as it would complement the work already being carried out by the Ombudsperson for Children. He asked whether Mauritian children were aware of the existence of the Ombudsperson for Children.

28. **Ms. Goordyal-Chittoo** (Mauritius) said that the Ombudsperson for Children visited both public and private schools on a regular basis and organized workshops on children's rights. Children in Mauritius were aware of their rights and were given the opportunity to express their views on matters concerning them in various forums. Judges could invoke the Convention directly and refer to its provisions in their rulings although some judges remained reluctant to do so. It was hoped that the adoption of the children's bill would lead to more judges invoking the Convention in such a way. The Civil Code provided that children aged 16 could marry with the permission of their parents or a judge. Children who married at age 16 were automatically emancipated.

29. **Mr. Kotrane** said that such a provision existed in many countries. He asked whether a minor who had become emancipated by virtue of marriage who subsequently committed a crime was treated as an adult or a child under Mauritian law. The Committee was of the view that emancipated minors who committed a crime should still be dealt with as children under the juvenile justice system. Emancipation by virtue of marriage should not deprive a child of the protection to which they were entitled under the law.

30. **Ms. Goordyal-Chittoo** (Mauritius) said that the Juvenile Offenders Act defined a juvenile as a person under the age of 18. Therefore, the provisions of the Act still applied to minors emancipated by virtue of marriage.

31. **The Chairperson**, speaking in her capacity as an expert, said that, regardless of whether a minor obtained the permission of their parents or a judge to marry or whether they were emancipated by virtue of marriage, for the purposes of the Convention, it remained a child marriage. She asked whether the State party had considered amending the relevant provision of the Civil Code.

32. **Ms. Goordyal-Chittoo** (Mauritius) said that, while there were no plans to amend that provision, the Government could consider doing so in the future.

33. **The Chairperson** noted that problems with maternal health, including mortality, were more serious for girls who had not reached their full maturity. Information on reproductive health was crucial. Girls should not marry at 16 just because they were pregnant.

34. **Ms. Goordyal-Chittoo** (Mauritius) said that in custody or divorce cases judges could, if necessary, listen to children, although they did not always do so. Children could also be heard in criminal cases in which they were victims or witnesses, either in camera or by video link.

35. **Ms. Oviedo Fierro** said that her concern was that the decision to hear a child in a court of law seemed to depend too much on the discretion of the judge. She therefore asked what mechanisms were in place to ensure that children were indeed heard whenever necessary.

36. **Ms. Goordyal-Chittoo** (Mauritius) said that the two to three Supreme Court judges who oversaw cases involving family matters had received general training in human rights, including the rights of children. More training programmes were being developed. The target audience was all persons working with children, including law-enforcement and judicial personnel.

37. Measures had been taken to block some Internet sites inappropriate for children. In addition, the country's main Internet service provider customarily informed subscribers of

the blocking devices meant to keep children safe on the Internet. The Computer Misuse and Cyber Crime Act also helped keep the Internet safe for children.

38. **Ms. Oviedo Fierro** asked whether there was any existing legal provision dealing specifically with the use of the Internet by children.

39. **Ms. Goordyal-Chittoo** (Mauritius) said that the Computer Misuse and Cyber Crime Act dealt with computer and Internet use by all persons, including children.

40. **Ms. Chooramun** (Mauritius) said that under the Civil Status Act births were to be declared within 45 days. That number of days was necessary because parents often found a name for their children only some time after they were born, and a child without a name could not be registered with the Civil Status Office. A declaration of birth more than 90 days late required a court order. The Ministry of Gender Equality, Child Development and Family Welfare facilitated the process, making every effort to expedite the paperwork, which involved the district courts, the police and other stakeholders. The police inquiry took time, and if no parents could be found, the child could be registered by a unit of the Ministry itself. A fast-track system, which involved all stakeholders, had reduced what had once given rise to a considerable backlog.

41. In 1998 the National Children Council initiated the creation of children's clubs. At the outset, those clubs had been planned for children in low-income areas, but in 2010 schoolchild protection clubs had been set up in approximately 100 primary and secondary schools attended by students of diverse socioeconomic backgrounds. One of the objectives was to provide a venue for children to express their views. Work was currently under way on the development of another formal body, the National Children's Committee. It, too, would provide children with a forum for making their voices heard.

42. **Ms. How Fok Cheung** (Mauritius) said that the curricula for lower secondary students from 11 to 14 years of age were currently undergoing review. Human rights education, including children's rights, had been included in the course programmes for social studies.

43. **Mr. Mezmur** requested information on the exact status of the National Child Protection Strategy and Action Plan, which was mentioned in the replies to the list of issues as having been "prepared". He also asked what the time frame for adoption and implementation of the children's bill was; whether the State party had considered evaluating the system for protecting children who were deprived of their family environment, not least to ensure that poverty was not the sole reason that children were deprived of that environment; whether it was taking steps to deinstitutionalize children; and, if such steps were being taken, how family reunification was ensured. He also wished to know whether there was a programme in place to professionalize the persons active in the informal system of foster care, whether the Mauritian Government considered the need to move children aged under 3 from institutions to alternative care a priority and, if so, what was being done to meet that challenge. In addition, more information on the extent to which the authorities supervised the providers of alternative care would be welcome.

44. He requested comment on the accuracy of reports that parents were keeping their children out of pre-primary schools until they reached the age of 4, at which a government subsidy for preschool education took effect. Reports had also indicated that schools in Mauritius, which in 2006 had been hailed as one of the three countries in Africa offering a genuinely free and compulsory primary education, were disregarding the capacities and limitations of individual students. For that reason, he wished to know what the schools were doing for students who were unable to pass school-leaving examinations and what the Government was doing to facilitate access to vocational training for students who dropped out of secondary school. Lastly, he requested comment on the possible impact on free primary education of the apparent growth of the private educational system.

45. **Mr. Gurán** asked whether general comments Nos. 12 and 14 had been made available in translation in Mauritius and what was being done to raise awareness, among the relevant specialists, of the issues related to those comments.

46. **Ms. Al-Shehail** asked what financial and technical support the Government had provided to deal with maternal health problems and increase low birth weights. In that connection, she wished to know whether there were any outreach services that targeted pregnant women and mothers of vulnerable families. She also asked whether substance abuse awareness programmes were part of school curricula and requested comment on reports that methadone substitution therapy was inaccessible to minors. Information on the steps the authorities were taking to deal with the consequences of inaccessible rehabilitation services would be welcome. Lastly, she wondered whether, as the HIV and AIDS Act 2006 seemed to suggest, minors with HIV/AIDS were refused health care if they did not seek treatment in the company of an adult.

47. **Mr. Cardona Llorens** asked whether it was true that, as information he had received had indicated, programmes to encourage inclusive education for children with disabilities were run almost exclusively by NGOs rather than by the State. He wondered why so many primary school students, especially those with intellectual disabilities, failed to earn school-leaving certificates and asked what options were available to those students. Secondary schools were sometimes inaccessible even to students who had been granted their school-leaving certificates. A recent newspaper article had reported that a boy in a wheelchair had been unable to find a secondary school that would accept him and that his case had been taken before the Equal Opportunities Commission. In that connection, he wished to know what powers the Commission had to force a change in the current state of affairs – namely, an utter lack of inclusiveness, to the extent that, if the newspaper were to be believed, there had never been a student in a wheelchair enrolled in any of the country's secondary schools. He also asked whether the Government had analysed the investments that would need to be made to promote greater inclusiveness, whether it was aware that salaries for special-education teachers were lower than those for other teachers and what would be done to give teachers training in inclusive education.

48. **Mr. Kotrane** asked what practical steps the Government was taking to address the problem of child labour, especially on farms and in domestic service, and to enable labour inspectors, whose work was generally limited to the formal sector, to investigate conditions in informal sectors. In addition, the figures for the number of children on the streets in Mauritius were conflicting, and it was not entirely clear that relying on the "Brigade des Mineurs" (juvenile brigade) was the ideal means of addressing the vulnerabilities of those children. Lastly, he asked whether the country had established a minimum age for criminal liability and, if so, what it was.

49. **Ms. Winter** asked whether Mauritius, which did not have a juvenile justice system, had measures in place to ensure that the law-enforcement protocol for dealing with minors was respected. Numerous cases of police brutality had been brought to the Committee's attention, and reports had indicated that the parents of street children who had been arrested were sometimes not notified of the arrest, often because the children themselves did not know where their parents were. The State party's assertions that there were no street children in Mauritius were therefore slightly puzzling. Children who were illiterate or conversant only in Creole were made to sign arrest reports drawn up in English. They were rarely informed of their rights. Legal aid was often unavailable, and it was not unusual for proceedings to take place without a parent, guardian or lawyer being present, in direct contradiction to the Convention. When they had committed a crime together with an adult, minors were usually tried and sentenced together with the adult. She therefore asked whether there were any plans to strengthen the Ministry of Gender Equality, Child Development and Family Welfare's overworked Child Development Unit and to upgrade

the system for dealing with children in conflict with the law or with child victims and witnesses. Lastly, she wished to know whether the Government was taking steps to improve supervision of the situation prevailing in institutions to which minors could be confined.

50. **Ms. Oviedo Fierro** asked whether Mauritius had not experienced a backlash that involved blaming children's rights for undermining adult authority.

The meeting rose at 6 p.m.